

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

GIULLIAN STEELE et al.

vs.

LEASING ENTERPRISES, LTD.

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CIVIL ACTION NO. 4:09-CV-02789
(COURT UNIT OF JUDGE HUGHES)
[JURY TRIAL DEMANDED]

**DEFENDANT LEL'S MOTION FOR AN ORDER REFLECTING THE
COURT'S OCTOBER 8, 2014 RULINGS**

On October 8, 2014, the Court conducted a hearing on the issue of damages for the collective participants.¹ Without waiving its position concerning the Court's Findings and Conclusions [*Dkt. No. 359*], Defendant Leasing Enterprises, Ltd. ("LEL") requests that the Court sign an Order reflecting the Court's rulings on the two primary topics addressed at that hearing.

First, during the October 8 hearing, the Plaintiffs requested that the Court supplement its Findings and Conclusions to find that LEL's credit card offset was implemented in bad faith under the FLSA and that LEL should be assessed liquidated damages. The Court denied Plaintiffs' request during the hearing. On October 22, 2014, Plaintiffs filed a motion on this issue. *See Dkt. No. 364*. On October 30, LEL responded and filed a proposed order. *See Dkt. No. 365*. LEL requests that the Court sign LEL's proposed supplement to its Findings of Fact and Conclusions of Law to state that no liquidated damages are appropriate in this case.

Second, during the October 8 hearing, the Court admitted two charts, marked as Exhibits "A" (detailed chart) and "B" (summary chart), identifying the ineligible participants and showing wages for eligible participants. Counsel for Plaintiffs indicated during the hearing that they had

¹ On August 19, 2014, the Court directed the parties to confer on this matter in advance of the hearing. As directed by the Court, and without waiving its position concerning the Findings and Conclusions, Perry's reviewed its records and prepared a chart showing eligible participants, their respective hours worked, and the corresponding calculation of wages of such participants, in light of the Court's Findings and Conclusions. Counsel for Perry's timely submitted this chart to counsel for Plaintiffs prior to the Hearing for review.

no objection to the information as stated in the charts. Counsel for Plaintiffs alluded to the fact that the chart only described hours worked and corresponding wages through the date of trial, but indicated that they would not object to the chart because Plaintiffs had decided not to submit any evidence to the Court regarding post-trial actions by LEL. After this discussion, the Court gave certain directions about how the payments should be made to the remaining eligible claimants.

LEL requests that the Court sign the attached proposed order identifying the ineligible participants and dismissing their claims against LEL. Without waiving its position concerning the Court's Findings and Conclusions, LEL also requests that the Court memorialize its statements concerning the payments it orders to the eligible claimants. Pursuant to Rule 58(b), the Court could then move forward with entering judgment in the aggregate amount due to the remaining Plaintiffs.

LEL requests that the Court sign the attached proposed Order concerning the issues addressed during October 8, 2014 hearing.

DATED this 22nd day of December, 2014.

Respectfully submitted,

JACKSON WALKER L.L.P.

/s/ Lionel M. Schooler

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ATTORNEY-IN-CHARGE FOR DEFENDANT
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above Defendant LEL's Motion for an Order Reflecting the Court's October 8, 2014 Rulings was filed with the Court's ECF filing system, which will provide electronic notification to all counsel who have appeared in this action, and that a courtesy copy was sent by email to Counsel for Plaintiffs, Howard L. Steele, Jr. (24002999) on this 22nd day of December, 2014.

/s/ Lionel M. Schooler

Lionel M. Schooler